

NEWS

NEW JERSEY DEPARTMENT OF

LWD

LABOR AND WORKFORCE DEVELOPMENT
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State of New Jersey
Department of Labor and
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PO Box 110
Trenton, New Jersey
08625-0110

RE: Proposed Readoption with Amendments:
N.J.A.C. 12:90 Boiler, Pressure Vessels and Refrigeration

Attached please find the above-referenced matter which was published in the Monday, November 15, 2004 *New Jersey Register*.

If you have any questions, please contact Frederick S. Cohen, Regulatory Officer I at 609-777-2960.

LABOR AND WORKFORCE DEVELOPMENT

(a)

PUBLIC SAFETY AND OCCUPATIONAL SAFETY AND HEALTH

Boilers, Pressure Vessels and Refrigeration

Proposed Readoption with Amendments: N.J.A.C. 12:90

Authorized By: Kevin P. McCabe, Commissioner, Department of Labor
and Workforce Development.

Authority: N.J.S.A. 34:1-20, 34:1-47, 34:1A-3 and 34:7-18; and
Reorganization Plan 002-2002.

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2004-446.

A **public hearing** on the proposed readoption with amendments will be
held on the following date at the following location:

Monday, November 22, 2004

10:00 A.M. to 12:00 Noon

New Jersey Department of Labor and Workforce Development

13th Floor Auditorium

Trenton, New Jersey

Please call the Office of Regulatory Services at 609-292-7375 if you wish
to be included on the list of speakers.

Submit written comments by January 14, 2005 to:

Frederick S. Cohen, Regulatory Officer

Office of Regulatory Services

New Jersey Department of Labor and Workforce Development

PO Box 110—13th Floor

Trenton, New Jersey 08625-0110

Fax: (609) 292-8246

If you need this document in braille, large print or audio cassette, please
contact the Office of Communications at (609) 292-7832 or NJ Relay (TTY)
1-800-852-7899.

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 12:90, Boilers, Pressure
Vessels and Refrigeration, is scheduled to expire on April 19, 2005. The
Department of Labor and Workforce Development has reviewed these rules
and has determined them to be necessary, reasonable and proper for the
purposes for which they were originally promulgated with non-substantive
amendments to reflect the formal name change of the agency from the
Department of Labor to the Department of Labor and Workforce
Development. N.J.A.C. 12:90-3.11(e) is being amended to more accurately
reflect the title of the Chief, Bureau of Boiler and Pressure Vessel
Compliance. N.J.A.C. 12:90-8.8(a)5 is being amended to reflect the
Department of Labor and Workforce Development's role in the training
program approval process in accordance with Reorganization Plan No. 001-
2004.

A summary of the subchapters proposed for readoption follows:

N.J.A.C. 12:90-1 sets forth general provisions, including the purpose and
scope of the rules.

N.J.A.C. 12:90-2 provides definitions.

N.J.A.C. 12:90-3 addresses administrative functions required to be performed by the owner or user of any boiler, pressure vessel or refrigeration system within the scope of this chapter.

N.J.A.C. 12:90-4 concerns various types of boilers and their inspection and registration.

N.J.A.C. 12:90-5 addresses unfired pressure vessels; their design, inspection and registration.

N.J.A.C. 12:90-6 concerns refrigeration systems.

N.J.A.C. 12:90-7 concerns pressure relief valves.

N.J.A.C. 12:90-8 addresses licensing of operating engineers and boiler operators.

N.J.A.C. 12:90-9 addresses violations and penalties.

N.J.A.C. 12:90-10 addresses standards and publications referred to in this chapter.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments will enable the Department to protect the lives and safety of persons who operate boilers, pressure vessels and refrigeration units or who live or work in buildings in which this equipment is in use. By maintaining strict licensing and enforcement procedures, the Department can help eliminate accidents caused by human error and equipment failure.

Economic Impact

The rules proposed for readoption with amendments have required and will continue to require owners and operators of boilers, pressure vessels and refrigeration units to incur maintenance costs. The cost of maintaining boilers, pressure vessels and refrigeration units in accordance with these rules varies in accordance with the size, nature, age and condition of the equipment. These costs are necessary in order to protect the safety of persons who work with, or live or work in proximity to, the equipment, and failure to maintain the equipment in accordance with these standards would have significant adverse effects in terms of loss of life and property and consequent liability. The rules also require owners and operators of this equipment to pay inspection fees, which vary depending on the nature of the equipment.

Federal Standards Statement

No Federal standards analysis is required because these rules are not being proposed for readoption in compliance with, or in order to implement, any Federal law or rules or any State law referencing or implementing any Federal law or rules.

Jobs Impact

The Department does not anticipate that any jobs will be lost as a consequence of the rules proposed for readoption. The rules proposed for readoption have required and will continue to require owners and operators of boilers, pressure vessels and refrigeration equipment to have workers available who are able to maintain the equipment in accordance with these rules. This has resulted and will continue to result in the generation of jobs, and will continue to maintain the need for existing jobs in this area.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have an impact on the agriculture industry to the extent that a farm operator may be the owner or operator of boilers, pressure vessels or refrigeration equipment in some aspect of operations, in which case the farm operator would be required to comply with these rules just as would any other owner or operator of such equipment. The impact would vary depending on the size, nature and condition of the equipment.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments will continue to impose reporting, recordkeeping and other compliance requirements upon owners and operators of boilers, pressure vessels and refrigeration units subject to regulation by the Department. Some of these owners and operators may be "small businesses" within the meaning of the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The reporting requirements imposed by the rules proposed for readoption are filing of reports of repairs, design plans, alterations, tests and employment of unlicensed persons, and filing of applications for approvals. The recordkeeping requirements imposed by the rules proposed for readoption are the maintenance of logs concerning equipment performance by various categories of licensed persons. The compliance requirements imposed by the

rules proposed for readoption provide that boilers, pressure vessels and refrigeration equipment using toxic or flammable refrigerants must be maintained and, when necessary, operated by licensed individuals. The professional services of such individuals would have to be contracted for if there were no qualified individual in the owner or operator's employ. No other professional services are required to be retained to comply with the rules proposed for readoption.

The rules impose specific technical requirements for the design, construction, inspection, installation, repair and alteration of these types of equipment. The rules incorporate by reference specified editions of the BOCA, ASME and National Board Inspection codes. The rules also impose inspection fees and requirements for registration certificates.

The Division has determined that these rules are the minimum necessary for the protection of the lives and safety of persons who work with, or live or work in proximity to, boilers, pressure vessels and refrigeration units. The Division has not provided differing or lesser standards for small businesses because this would endanger the safety and welfare of workers and the public generally.

Smart Growth Impact

The rules proposed for readoption with amendments will not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:90.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

12:90-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Approved" means acceptable to the Commissioner of Labor and Workforce Development.

"Bureau of Boiler and Pressure Vessel Compliance" means the Bureau of Boiler and Pressure Vessel Compliance of the Division of Public Safety and Occupational Safety and Health, New Jersey Department of Labor and Workforce Development.

"Commissioner" means the Commissioner of Labor and Workforce Development or his or her authorized agent.

"Division of Public Safety and Occupational Safety and Health" means the Division of Public Safety and Occupational Safety and Health of the New Jersey Department of Labor and Workforce Development.

12:90-3.11 Duties of others involved

(a)-(d) (No change.)

(e) Following an occurrence to a boiler or pressure vessel, the owner or user shall promptly notify the Chief [Inspector] of the Bureau of Boiler and Pressure Vessel Compliance by submitting a detailed report of the occurrence. In the event of a personal injury or any explosion, notice shall be given immediately to the Chief [Inspector] of the Bureau of Boiler and Pressure Vessel Compliance by telephone or by facsimile or by any other expeditious electronic notification method. The telephone number for these notices is (609) 984-0626. The telefacsimile number for these notices is (609) 984-1577. Neither the boiler or pressure vessel, nor parts thereof, shall be removed or disturbed before permission has been given by the Chief [Inspector], except for the purpose of saving human life and limiting consequential damage.

12:90-4.9 Qualification of authorized repair firms

(a) (No change.)

(b) A letter of application shall be addressed to the Bureau of Boiler and Pressure Vessel Compliance by a responsible officer to the firm requesting welded repair authorization. The letter of application shall identify the New Jersey address and location of the welded repair firm to be considered for authorization, and shall include evidence that an authorized inspection agency, other than the New Jersey Department of

Labor and Workforce Development, Bureau of Boiler and Pressure Vessel Compliance, has agreed to provide inspection service as required.

(c)-(i) (No change.)

12:90-4.13 Fee for field inspection

(a) An insurance company making an annual field inspection shall pay a fee of \$20.00 for each boiler inspected. The insurance company shall pay the fee to the Commissioner of Labor and Workforce Development within 30 days of performing the inspection.

(b) (No change.)

(c) The fee for a State field inspection for each annual internal-external inspection, which shall include a hydrostatic test if found necessary, shall be paid to the Commissioner of Labor and Workforce Development as follows:

1.-3. (No change.)

(d) In addition to the annual internal-external inspection, there may be an external inspection for which the owner or user shall pay to the Commissioner of Labor and Workforce Development a fee of \$50.00.

12:90-6.5 Fee for field inspection

(a) An insurance company making an annual inspection of refrigeration systems shall pay a \$20.00 fee to the Commissioner of Labor and Workforce Development for each system.

(b) (No change.)

(c) The fee for an annual field inspection by the State, based on the refrigeration capacity of the system, shall be made payable to the Commissioner of Labor and Workforce Development as follows:

1.-3. (No change.)

SUBCHAPTER 8. LICENSING OF OPERATING ENGINEERS AND BOILER OPERATORS

12:90-8.2 Application for licenses

(a)-(j) (No change.)

(k) The fee for each examination and for any license issued by the bureau shall be \$50.00, and the fee for a raise of grade or additional classification shall be \$40.00. The fee shall be in the form of a check or money order made payable to the Commissioner of Labor and Workforce Development and shall accompany the application.

(l)-(m) (No change.)

12:90-8.8 Eligibility for third grade refrigeration engineer's license (blue seal)

(a) To be eligible for a third grade refrigeration engineer's (2-C) examination, the applicant shall have had at least:

1.-4. (No change.)

5. Six months experience as an operator of a nontoxic refrigeration unit of at least 250 tons capacity, and satisfactory proof of completion of sufficient education in operation of a flammable, highly toxic or toxic refrigeration plant in an educational program approved by the Division of Vocational Education of the New Jersey Department of Education and the School Approval Unit of the New Jersey Department of Labor and Workforce Development.

12:90-8.15 Granting of license

(a)-(e) (No change.)

(f) Licenses merely bearing the impression of the seal of the Department of Labor and Workforce Development shall be issued as special licenses and are limited to the operation of equipment specified on the face thereof. When required, special licenses may be issued to operators of steam-driven prime movers that do not produce power, and to operators of non-conventional boilers, such as, but not limited to, electric, or conventional high pressure boilers of over six to 100 horsepower.

1. (No change.)

(g) (No change.)

SUBCHAPTER 10. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

12:90-10.2 Availability of documents for inspection

A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office of the Division of Public Safety and Occupational Safety and Health between the hours of 9:00 A.M. and 4:00 P.M. on regular working days:

New Jersey Department of Labor and Workforce Development
Division of Public Safety and Occupational Safety and Health
[225 East State Street] PO Box 392
3rd Floor
Trenton, New Jersey 08625-0392

12:90-10.3 Availability of documents from issuing organizations

Copies of the standards and publications referred to in this chapter may be obtained from the organizations listed below. The abbreviations proceeding these standards and publications have the following meanings, and are the organizations issuing the standards and publications listed in N.J.A.C. 12:90-10.1.

New Jersey Department of [Community Affairs] Labor and Workforce Development
Division of [Codes and Standards] Public Safety and Occupational Safety and Health
PO Box [816] 392
3rd Floor
Trenton, New Jersey 08625-[0816]0392